IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9990 of 1995

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VIPIN MOHANLAL SHAH

Versus

CHIEF OFFICER

Appearance:

1. Special Civil Application No. 9990 of 1995

MR RS SANJANWALA for Petitioner No. 1

MR SUNIL C PATEL for Respondent No. 1

MR S.P. SEN, A.G.P. for Respondent No. 2,3 and 4

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 02/08/2001

ORAL JUDGEMENT

Heard the learned Advocates.

The subject matter of this petition is the property bearing City Survey No. 1809, Municipal House

No. 7/592 situated at Valsad. The petitioner is the owner of the said property. The Valsad Area Development Authority had proposed a development plan for the municipal area of Valsad. Draft development plan proposed by the said Authority was sanctioned on 16th June, 1984, and the final plan came into force on 13th August, 1984. Under the said development plan, part of the above referred property bearing City Survey No. 1809 was reserved for the proposed development road. The respondent no.1 - Municipality made an attempt to acquire the said reserved land by an agreement which did not materialise. The Municipality did not take any step to acquire the said land under the Land Acquisition Act, 1894 either. The petitioner therefore, on 19th September, 1994 gave a notice to the Municipality to acquire the land in accordance with Land Acquisition Act. Even after the receipt of the said notice, the Municipality has failed to commence the acquisition of the said land under the Land Acquisition Act, 1894. The petitioner, therefore, claims that the reservation in respect of the said land has lapsed, and the petitioner has a right to develop the said land. Therefore, the petition.

The facts stated hereinabove are not disputed. The provisions contained in Sub Section 2 of Section 20 of the Gujarat Town Planning and Urban Development Act, 1976 shall, therefore, be attracted. The reservation in respect of the said land shall stand lapsed. The petitioner shall have right to develop the said land.

In above view of the matter, the petition is allowed. The reservation proposed in respect of land City Survey No. 1809, Municipal House No. 7/592 situated at Valsad, under the development plan of 1984 is declared to have lapsed. The development plan submitted by the petitioner shall be considered by the concerned Authority in accordance with law. Rule is made absolute to the above extent. There shall be no orders as to costs.

(Ms. R.M. DOSHIT,J.)

siji